

REMARKS

Claims 124-129 are pending in this application. Claims 1-123 have been canceled without prejudice or disclaimer in the Preliminary Amendment filed January 2, 2004. Claims 125-129 have been withdrawn from consideration in the Office Action mailed June 23, 2006, as not reading on the elected species. Applicants appreciate the previous acknowledgement that the elected species is allowable.

Claim 124 and withdrawn claim 128 has been amended to delete "aralkyl" as a possible substituent in the definition of R<sup>3</sup> in the claimed chiral amino alcohols.

**The Rejection of Claim 124 under 35 U.S.C. § 102(b)**

Claim 124 has been rejected under 35 U.S.C. § 102(b) as anticipated by Evans *et al.*, J. ORG. CHEM. (1985) 23:4615-4625 ("Evans"). Applicants respectfully traverse this rejection insofar as it applies to claim 124 as now amended.

Evans does not disclose any compound within the scope of amended claim 124. The compound **5d** of Evans, cited in the Office Action, bears a phenylmethyl (or benzyl) group, which is methyl-substituted on the methylene carbon atom, at the position most closely corresponding to R<sup>3</sup> (at the right-hand terminus) of the claimed compounds. To advance prosecution, claim 124 (and withdrawn, dependent claim 128) have been amended to exclude aralkyl (and thus phenylmethyl) as a possibility for R<sup>3</sup>.

For at least this reason, the pending claims do not read on compound **5d** or any other compound disclosed in Evans. Reconsideration and withdrawal of the rejection is respectfully requested.

**Rejoinder of Claims 125-129 (M.P.E.P. § 821.04)**

Claims 125-129, by virtue of their dependency on claim 124 (as well as the above-noted amendment to claim 128), are of the same scope and therefore comply with the requirements under M.P.E.P. § 821.04(a) for rejoinder. Upon a finding that elected claim 124 is allowable, the non-elected claims 125-129 must be rejoined. See M.P.E.P. § 821.04(a).

Applicants therefore respectfully request, upon a finding that elected claim 124 is allowable, rejoinder of non-elected claims 125-129.

**CONCLUSION**

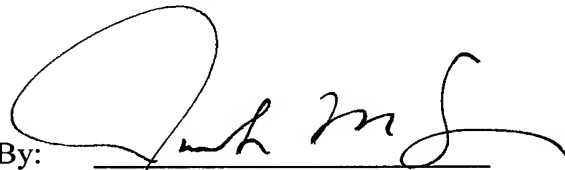
In view of the above amendments and remarks, pending claims 124-129 of this application are believed to be in condition for allowance. Acknowledgement of the same is respectfully requested.

This response is believed to completely address all of the substantive issues raised in the Office Action dated March 13, 2007.

Respectfully submitted,  
BANNER & WITCOFF, LTD.

Date: June 13, 2007

By:



Joseph M. Skerpon  
Registration No. 29,864

Customer No. 22907

BS